

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASETEK DANMARK A/S,)
)
Plaintiff and)
Counter-Defendant,)
)
vs.) Case No. 3:19-cv-00410-EMC
)
COOLIT SYSTEMS, INC.,)
)
Defendant and)
Counter-Claimant.)
)
COOLIT SYSTEMS USA INC.,)
COOLIT SYSTEMS ASIA PACIFIC)
LIMITED, COOLIT SYSTEMS)
(SHENZHEN) CO., LTD.,)
)
Defendants,)
)
COSAIR GAMING INC., and)
CORSAIR MEMORY INC.,)
)
Defendants.)
)

DEPOSITION OF DAVID TUCKERMAN, Ph.D.
MONDAY, DECEMBER 22, 2021

Reported Remotely and Stenographically by:
JANIS JENNINGS, CSR No. 3942, CLR, CCRR
Job No. 4997336

REMOTE DEPOSITION OF DAVID TUCKERMAN, Ph.D., located in Lake Stevens, Washington, taken on behalf of the Defendants and Counter-Claimants CoolIT entities and Corsair entities, beginning at 9:10 a.m., on Wednesday, December 22, 2021, sworn remotely by Janis Jennings, Certified Shorthand Reporter No. 3942, CLR, CCRR, located in the City of Walnut Creek, County of Contra Costa, State of California.

REMOTE APPEARANCES:

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I N D E X

WITNESS

PAGE

DAVID TUCKERMAN, Ph.D.

EXAMINATION BY MR. KNIGHT

9

QUESTIONS NOT ANSWERED

PAGE

LINE

53

24

232

20

1 question -- I just ask -- 16:12

2 MR. KNIGHT: Arpita, please stop. 16:12

3 BY MR. KNIGHT: 16:12

4 Q. Dr. Tuckerman, are you able to answer my 16:12

5 question? 16:12

6 MS. BHATTACHARYYA: Rephrase your question 16:12

7 or move on. 16:12

8 BY MR. KNIGHT: 16:12

9 Q. Are you refusing to answer my question, 16:12

10 Dr. Tuckerman? 16:12

11 A. I'm not refusing to answer the question. I 16:12

12 would say that one could potentially take that 16:13

13 position. If you were going to take that position, 16:13

14 which was not taken in Dr. Pokharna's report, I 16:13

15 would reserve the right to challenge the reasoning, 16:13

16 if -- if necessary. 16:13

17 I just don't have the, shall we say, the 16:13

18 cognitive ability to work through all the issues of 16:13

19 taking that position because it is not the position 16:13

20 that Dr. Pokharna took. So I won't rule out that 16:13

21 you could take a position like that. And if you'd 16:13

22 like to take a position like that, then we can, you 16:13

23 know, do a follow-up filing or something, I guess is 16:13

24 the way I'd answer the question. 16:14

25 MR. KNIGHT: Okay. I think it's a good time 16:14

1 to take a 10-minute break, if we can go off the 16:14
2 record. 16:14
3 THE WITNESS: Sounds good. 16:14
4 MR. KNIGHT: Great. 16:14
5 THE VIDEOGRAPHER: We're going off the 16:14
6 record at 4:14 p.m. 16:14
7 (Off the record.) 16:26
8 THE VIDEOGRAPHER: We are on the record at 16:26
9 4:26 p.m. This is the beginning of media 8 in the 16:26
10 deposition of Dr. David Tuckerman. 16:26
11 BY MR. KNIGHT:
12 Q. Welcome back, yet again, Dr. Tuckerman. 16:26
13 A. Likewise. 16:26
14 Q. Okay. Dr. Tuckerman, I want to switch gears 16:26
15 a little bit and -- and talk about your 16:27
16 understanding of the term "plate." So what is the 16:27
17 definition of the term plate that you applied in 16:27
18 your noninfringement report? 16:27
19 A. Well, I believe it -- there's no -- if I'm 16:27
20 not mistaken, there's no specific claim con- -- 16:27
21 no -- no specific construction on that term from the 16:27
22 court. So I would use the plain and ordinary 16:27
23 meaning to a person skilled in the art as it 16:27
24 relates, you know, to this sort of field. And I 16:27
25 understand it to be a -- basically rigid. 16:27

Now, rigid is not an absolute term. There is no such thing as a material that is completely rigid. It's a matter of degree. But it's -- rigidity is a key feature, and it would need to have a -- you know, a -- it has in the general understanding -- engineering understanding of a plate is it has got two parallel faces, and the lateral extent of the plate is -- you know, is greater than -- I mean, it doesn't have to be tremendously greater, but it has to be, you know, noticeably greater than the width of the plate. So it has to have some -- you know, some aspect ratio.

And that's the basic plate idea. And it is used to -- in conjunction with being some sort of structural member in something, you know, providing strength, stiffness and such. Now, it doesn't mean it can't have features in it. It can absolutely have holes and slots. I mean, you can't really use a plate in engineering unless you're, you know, generally doing something with it, attaching it to something, attaching something to it. You know, interlocking it, whatever. It's so -- clamping it, you know, supporting it in some way.

So it -- you know, you can have features that go all the way through. You can have grooves

1 in it, slots, I mean, what have you. But the basic 16:30
2 structure from which you're starting is that 16:30
3 parallel plate -- the parallel plane with, you 16:30
4 know -- you know, a width-to-thickness ratio that 16:30
5 is, you know -- I mean, I'd say, you know, at least 16:30
6 two or more. 16:30

7 The -- the -- well, let's see, what else 16:30
8 goes into kind of understanding -- general 16:30
9 understanding of a plate. You know, it can -- you 16:30
10 know, it can be used in tension or flexure, but 16:30
11 flexure is not like a lot because of rigidity. And 16:31
12 there's also terminology of thin plate versus thick 16:31
13 plate in the literature. There's simpler equations 16:31
14 for modeling a thin plate where the thickness is 16:31
15 very much smaller than the lateral dimensions, and 16:31
16 there are somewhat more involved equations when 16:31
17 there -- that width-to-thickness ratio is not so 16:31
18 large. 16:31

19 And if you go real extreme with thinness 16:31
20 versus size, it would probably no longer be 16:31
21 considered a plate at that point. It would be 16:31
22 considered a membrane. 16:31

23 So those are kind of the boundaries of the 16:31
24 concept in engineering parlance. And, you know, 16:31
25 it's also something that retains -- you know, in 16:31

1 virtue of being essentially rigid material, it 16:32
2 retains its shape. You know, if you apply bending 16:32
3 forces, for example, it, you know, goes back to 16:32
4 where it was. But on the other hand, you can exceed 16:32
5 the elastic limit, in which case, you know, you can 16:32
6 make a permanent deformation to it. 16:32

7 That's kind of a -- more or less about it. 16:32

8 Q. Okay. Okay. That was a very thorough 16:32
9 answer. I appreciate that. 16:32

10 So if we look at your noninfringement 16:32
11 report, what evidence do you cite to to support the 16:32
12 definition you gave today about a plate? 16:32

13 A. Well, you know, because it's a plain and 16:32
14 ordinary meaning and I have been a working engineer 16:32
15 for 45 years, I didn't feel the need to give a 16:33
16 technical definition. I mean, there are textbook 16:33
17 definitions, you know, that generally just use kind 16:33
18 of the simple thing I just said, which is that the 16:33
19 width is significantly greater than the thickness -- 16:33

20 Q. Uh-huh.

21 A. -- you know. But, you know, there's books 16:33
22 on the theory of plates and how they're used in 16:33
23 structures. 16:33

24 Q. Uh-huh. Uh-huh. Okay. Okay. Have you 16:33
25 ever heard of a rubber plate before? 16:33

1 A. No, I've not. 16:33

2 Q. You've never encountered a rubber plate in 16:33

3 your 40-some-odd years of engineering experience? 16:33

4 A. No, I wouldn't -- 16:33

5 Q. Okay.

6 A. Rubber plate, no. 16:33

7 Q. Okay. Okay. Let's turn to the '330 patent. 16:33

8 A. Uh-huh.

9 Q. I believe I have previously introduced it. 16:34

10 Let me give you the exhibit -- 16:34

11 A. Thank you. 16:34

12 Q. -- number. That would be Exhibit No. 263. 16:34

13 A. 263. Okay. Let me download that. 16:34

14 Q. I would like to direct your attention to the 16:34

15 asserted claims 1, 12 and 14, in particular. 16:34

16 A. Okay. Let me get that on the screen here. 16:34

17 So this is the '330 patent. 16:34

18 Q. That's right. 16:34

19 A. Okay. And -- yeah, Exhibit 263. And the 16:34

20 claims being -- 16:35

21 Q. I would like you to look at claims 1, 12 and 16:35

22 14. 16:35

23 A. Okay. 16:35

24 Q. I just want to confirm a couple things. 16:35

25 A. Sure. 16:35

1 Q. Okay. So in claims 1, 12 and 14, do those 16:35
2 claims expressly recite that the claimed plate 16:35
3 has compliant surfaces? 16:35
4 A. Let me -- 16:35
5 DEPOSITION REPORTER: Excuse me. Mr. 16:35
6 Knight, can I have that question again?
7 "So in claims 1, 12 and 14..." 16:35
8 BY MR. KNIGHT: 16:35
9 Q. Yeah. Do claims 1, 12 and 14 of the '330 16:35
10 patent expressly recite that the claim plate has 16:35
11 compliant surfaces? 16:35
12 A. Well, I mean, I just did a search on the PDF 16:35
13 for the word "compliant" and found it nowhere in the 16:36
14 patent, so I would say no. 16:36
15 Q. Okay. And do claims 1, 12 and 14 of the 16:36
16 '330 patent expressly recite the material of the 16:36
17 claimed plate? 16:36
18 A. No. It's -- they're silent on the issue of 16:36
19 material. 16:36
20 Q. Okay. Dr. Tuckerman, in preparation for 16:36
21 your noninfringement report, did you review the 16:37
22 PTAB's final written decision in the IPR of the '266 16:37
23 patent? 16:37
24 A. You know, I reviewed it a long time ago. 16:37
25 Q. Okay. 16:37

1 A. Yeah.

2 Q. But you did review it; is that correct? 16:37

3 A. Well, let me -- let me make sure we are 16:37

4 talking about the right thing. Can I see my -- let 16:37

5 me look at the Materials Considered list. 16:37

6 Q. It should be there. And just for your 16:37

7 reference, the IPR of the '266 patent is 16:37

8 IPR2020-00825. 16:37

9 A. My Materials Considered exhibit is which 16:38

10 one, if you can help me out? 16:38

11 Q. Yeah. Let me pull up the list. It should 16:38

12 be Exhibit 276. 16:38

13 A. Yes. Okay. All right. And the document 16:38

14 you're referring to is? 16:38

15 Q. It's the final written decision in 16:38

16 IPR2020-00825. 16:38

17 A. Yes. That is in Materials Considered. 16:38

18 Q. Okay. Now, Dr. Tuckerman, is it your 16:38

19 understanding from the PTAB decision that they 16:38

20 construed the term "plate" and decided there was no 16:38

21 support and specification for a plate made of 16:38

22 compliant material? 16:38

23 MS. BHATTACHARYYA: Objection. Calls for a 16:39

24 legal conclusion. 16:39

25 THE WITNESS: Just one moment, please. 16:39

1 BY MR. KNIGHT:

2 Q. Uh-huh.

3 A. So I think, you know, in paragraph 52 of my 16:41
4 noninfringement report -- 16:41

5 Q. Uh-huh. 16:41

6 A. -- I state: 16:41

7 "In fact, in the IPR filed by Asetek 16:41
8 against CoolIT's '266 patent..." 16:41

9 By the way, is that the patent you had me 16:41
10 pull up, or did you have me pull up a different one? 16:41

11 Q. I had you pull up the '330 patent, but the 16:41
12 '266 patent and the '330 patent both refer to a 16:41
13 plate. 16:41

14 A. Right. Okay. So in... But in regard to 16:41
15 the '266 patent: 16:41

16 "The PTAB agreed with Asetek that the 16:41
17 2007 provisional does not contain a 16:41
18 disclosure that would have conveyed 16:41
19 to a person of ordinary skill in the 16:41
20 art that the inventor had possession 16:41
21 of a manifold body defining a pair 16:41
22 of compliant surfaces (PTAB 16:42
23 IPR2020-00825 final written decision 16:42
24 at 23)." [As read.] 16:42
25 So that is the document you're referring to? 16:42

1 Q. Uh-huh.

2 A. "PTAB also found that the inventor 16:42
3 substitution of the phrase 'rigid 16:42
4 plate' for the phrase 'plate 240' 16:42
5 in the '266 patent is objective 16:42
6 intrinsic evidence that, as of 2012, 16:42
7 the inventor considered plate 240, 16:42
8 which he was contrasting with 16:42
9 compliant insert 334, to be made of 16:42
10 a rigid rather than compliant 16:42
11 material. As the PTAB found the term 16:42
12 'plate' in the '330 patent claims, as 16:42
13 well as the '284 patent claims in 16:42
14 claims 13 and 15 of the '266 patent" -- 16:42
15 [As read.]

16 Remind me again, was that the one we were 16:43
17 looking at or -- 16:43

18 Q. We were looking at the '330 patent, but 16:43
19 again, both the '330 patent and the '266 patent 16:43
20 include the term "plate." 16:43

21 A. Right. Okay. 16:43
22 "The '330 patent claim cannot be 16:43
23 construed to include both a rigid 16:43
24 plate as well as a compliant gasket 16:43
25 manifold because there is no written 16:43

1 description support for a compliant 16:43
2 manifold body in the 2007 provisional 16:43
3 or the '330 patent." [As read.] 16:43
4 Does that answer the question or... 16:43
5 Q. I understand that you recited for me what is 16:43
6 in your report, but I don't think it answers my 16:43
7 question. So I will ask my question again. 16:43
8 Is it your understanding that -- from the 16:43
9 PTAB decision, that they construed the term "plate" 16:43
10 and then they decided there was no support in the 16:43
11 specification for a plate made of compliant 16:43
12 material? 16:43
13 MS. BHATTACHARYYA: Objection. Asked and 16:43
14 answered. 16:43
15 THE WITNESS: I have -- I mean, I quoted you 16:44
16 verbatim from the report. It -- 16:44
17 BY MR. KNIGHT:
18 Q. I understand that, Dr. Tuckerman, and 16:44
19 then you -- 16:44
20 A. I don't -- I will put it this way. I don't 16:44
21 see support for a compliant plate, you know, in -- I 16:44
22 mean, I guess I'm not sure where -- how to answer 16:44
23 it. I thought it kind of -- the excerpts here, I 16:44
24 thought, speak for themselves. Or is -- is there a 16:44
25 different -- does your question mean something 16:45

1 different than what I just said, and if so, what do 16:45
2 you see -- 16:45
3 Q. Yeah. So I'm not asking you to read your 16:45
4 report. I'm actually asking you a question about 16:45
5 whether your understanding is that the PTAB in the 16:45
6 final written description construed the term 16:45
7 "plate." 16:45
8 MS. BHATTACHARYYA: Objection. Vague. 16:45
9 Asked and answered. Calls for a legal conclusion. 16:45
10 THE WITNESS: I would have to re-read that 16:45
11 report in detail to see if they construed the term 16:45
12 "plate." Do you want me to take a look through the 16:45
13 report or -- 16:45
14 BY MR. KNIGHT:
15 Q. I don't. 16:45
16 A. Okay. 16:45
17 Q. Now, but just to be clear, Dr. Tuckerman, 16:45
18 you considered the final written decision when 16:45
19 preparing the noninfringement report; is that 16:45
20 correct? 16:45
21 A. Yes, as indicated by excerpts from it. 16:45
22 Q. Okay. And did you read the final written 16:46
23 decision in IPR2020-00825 from beginning to end in 16:46
24 preparation for your noninfringement report? 16:46
25 A. I have read -- object -- sorry. You have an 16:46

1 objection, Arpita? 16:46

2 MS. BHATTACHARYYA: No. Just go ahead and 16:46

3 answer. 16:46

4 THE WITNESS: Okay. I have read thousands 16:46

5 of pages of material that were given to me, and that 16:46

6 report was included in it. So at one time, it was 16:46

7 read through, you know, in the limited time there 16:46

8 was to prepare this rebuttal, the -- I can't say for 16:46

9 sure that I read the whole report through again. 16:46

10 I think that having a -- you know, having 16:47

11 material -- you know, I mean, if I give a textbook, 16:47

12 say, as Materials Considered that doesn't mean 16:47

13 everything in the textbook is relevant. So what's 16:47

14 excerpted here are, in my view, relevant passages. 16:47

15 BY MR. KNIGHT: 16:47

16 Q. So sitting here today, you can't tell me 16:47

17 whether the PTAB final written decision provides a 16:47

18 construction for the term "plate" or not, can you? 16:47

19 MS. BHATTACHARYYA: Objection. Same 16:47

20 objections. Asked and answered multiple times now. 16:47

21 THE WITNESS: Without an opportunity to 16:47

22 refresh my memory by reading the report in its 16:47

23 entirety, I cannot answer that affirmatively. 16:47

24 BY MR. KNIGHT: 16:47

25 Q. Okay. Okay. All right. In your invalidity 16:47

1 report, you map the claimed plate to several prior 16:48
2 art references; is that correct? 16:48
3 A. Yeah, I -- 16:48
4 Q. Okay. Great. It is just to confirm. It is 16:48
5 not a trick question. I'm just laying a foundation. 16:48
6 A. That wasn't a fair -- 16:48
7 MR. KNIGHT: Yeah. Okay. 16:48
8 I would like to introduce into the record 16:48
9 what I will designate as Exhibit 0281. 16:48
10 (Exhibit 281 marked for identification.) 16:48
11 BY MR. KNIGHT: 16:48
12 Q. Exhibit 0281 is United States Patent 16:48
13 Application Publication 2006/0096738 to Kang. 16:48
14 MS. BHATTACHARYYA: I'm not seeing the 16:49
15 exhibit yet. 16:49
16 MR. KNIGHT: Okay. I just introduced the 16:49
17 exhibit. Can you let me know if you see it? 16:49
18 THE WITNESS: What is the number of the 16:49
19 exhibit? 16:49
20 MR. KNIGHT: It should be exhibit 0281. 16:49
21 THE WITNESS: Okay. I got it. 16:49
22 BY MR. KNIGHT: 16:49
23 Q. Great. If you can open that up for me. 16:49
24 A. It's open. 16:49
25 Q. Great. Okay. Can you go to Figure 2 in 16:49

I, JANIS JENNINGS, CSR No. 3942, Certified
Shorthand Reporter, certify:

That the foregoing proceedings were taken
before me at the time and place therein set forth, at
which time the witness was duly sworn by me;

That the testimony of the witness, the
questions propounded, and all objections and statements
made at the time of the examination were recorded
stenographically by me and were thereafter transcribed;

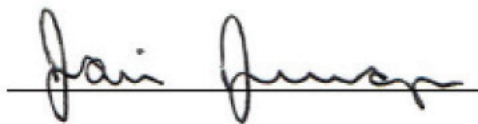
That the foregoing pages contain a full, true
and accurate record of all proceedings and testimony.

Pursuant to F.R.C.P. 30(e)(2) before
completion of the proceedings, review of the transcript
[X] was [] was not requested.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the
laws of California that the foregoing is true and
correct.

Dated this 3rd day of January 2022.

A handwritten signature in cursive script, appearing to read "Janis Jennings", is written over a horizontal line.

JANIS JENNINGS, CSR NO. 3942

CLR, CCRR